

The above rates are effective for services rendered on or after October 1, 2009.

Dated: December 18, 2009.

Patricia Toppings,

*OSD Federal Register Liaison Officer,
Department of Defense.*

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DEPARTMENT OF DEFENSE

Department of the Army; Army Corps of Engineers

Notice of Intent To Prepare a Joint Environmental Impact Statement and Environmental Impact Report for the Lower San Joaquin River Feasibility Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers; DOD.

ACTION: Notice of intent.

SUMMARY: The action being taken is the preparation of a joint environmental impact statement/environmental impact report (EIS/EIR) for the Lower San Joaquin River Feasibility Study (LSJRFS). The EIS/EIR will be prepared in accordance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The U.S. Army Corps of Engineers (USACE) will serve as lead agency for compliance with NEPA, and the San Joaquin Area Flood Control Agency (SJAFCA) will serve as lead agency for compliance with CEQA. The LSJRFS will evaluate alternatives, including a locally preferred plan, for providing flood damage reduction and ecosystem restoration along the lower (northern) portion of the San Joaquin River system in the Central Valley of California. The approximate area of the proposed action and analysis is identified in Figure 1.

DATES: Written comments regarding the scope of the environmental analysis should be received at (see **ADDRESSES**) by February 15, 2010.

ADDRESSES: Written comments concerning this study and requests to be included on the LSJRFS mailing list should be submitted to Mr. Doug Edwards, U.S. Army Corps of Engineers, Sacramento District, *Attn:* Planning Division (CESPK-PD-R), 1325 J Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Edwards via telephone at (916) 557-7062, e-mail at Douglas.M.Edwards@usace.army.mil, or regular mail at (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

1. *Proposed Action.* USACE is preparing an EIS/EIR to analyze the environmental impacts associated with a range of alternatives for providing flood damage reduction and ecosystem restoration along the lower (northern) portion of the San Joaquin River system (Figure 1).

2. *Alternatives.* The EIS/EIR will address an array of alternatives for providing flood risk management alternatives that are intended to reduce flood risk within the project area. Alternatives analyzed during the investigation may include, but are not limited to, a combination of one or more of the following flood damage reduction measures: adding, modifying, and/or re-regulating storage on major tributaries; new transitory storage within flood plains, increasing conveyance by raising levees; widening channels and floodway areas; dredging; and constructing or modifying weirs and bypasses; and various floodplain management measures. Ecosystem restoration measures may include, but are not limited to, restoring riparian, wetland, and floodplain habitats, and/or constructing setback levees for habitat restoration.

3. *Scoping Process.*

a. A public scoping meeting will be held to present an overview of the LSJRFS and the EIS/EIR process, and to afford all interested parties with an opportunity to provide comments regarding the scope of analysis and potential alternatives. The public scoping meeting will be held at the University of Pacific, Regent's Dining Room, 3601 Pacific Avenue, Stockton, CA on January 27, 2010, from 6-8 p.m.

b. Potentially significant issues to be analyzed in depth in the EIS/EIR include project specific and cumulative effects on hydraulics, wetlands and other waters of the U.S., vegetation and wildlife resources, special-status species, esthetics, cultural resources, recreation, land use, fisheries, water quality, air quality, and transportation.

c. USACE is consulting with the State Historic Preservation Officer to comply with the National Historic Preservation Act and with the U.S. Fish and Wildlife Service and National Marine Fisheries Service to comply with the Endangered Species Act. USACE is also coordinating with the U.S. Fish and Wildlife Service to comply with the Fish and Wildlife Coordination Act.

d. A 45-day public review period will be provided for all interested parties individuals and agencies to review and comment on the draft EIS/EIR. All interested parties are encouraged to respond to this notice and provide a

current address if they wish to be notified of the draft EIS/EIR circulation.

4. *Availability.* The draft EIS/EIR is currently scheduled to be available for public review and comment in 2014.

Dated: December 29, 2009.

Thomas Chapman,

COL, EN Commanding.

[FR Doc. 2010-686 Filed 1-14-10; 8:45 am]

BILLING CODE 3720-58-P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Solicitation for Estuary Habitat Restoration Program

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of solicitation for project applications.

SUMMARY: Congress has appropriated limited funds to the U.S. Army Corps of Engineers (Corps) and the National Oceanic and Atmospheric Administration (NOAA) for implementation of the Estuary Habitat Restoration Program as authorized in Section 104 of the Estuary Restoration Act of 2000, Title I of the Estuaries and Clean Waters Act of 2000 (Pub. L. 106-457) (accessible at <http://www.usace.army.mil/CECW/ERA/Pages/home.aspx>). On behalf of the Estuary Habitat Restoration Council (Council) the Corps is soliciting proposals for estuary habitat restoration projects. The Council requests that all proposals address the potential effects of sea level change and other impacts related to climate change on the viability of the proposed restoration. This may take the form of considering climate change in the planning, design, siting, and construction of the project, or in testing new restoration technologies that may help to alleviate effects of climate change. This document describes project criteria and evaluation criteria the Council will use to determine which projects to recommend. Recommended projects must provide ecosystem benefits, have scientific merit, be technically feasible, and be cost-effective. Proposals selected for Estuary Habitat Restoration Program funding may be implemented in accordance with a cost-share agreement with the Corps; or a cooperative agreement with the Corps or NOAA, subject to availability of funds.

In addition to this solicitation and the application form, a Supplemental Guide for Prospective Applicants is available at: <http://www.usace.army.mil/CECW/>

ERA/Pages/pps.aspx and <http://era.noaa.gov/>.

DATES: Proposals must be received on or before March 16, 2010.

ADDRESSES: Ms. Jenni Wallace, NOAA Restoration Center, SSMC3 F/HC3 Room 14730, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Ms. Jenni Wallace, (301) 713-0174 x183, e-mail: Jenni.Wallace@noaa.gov or Ms. Ellen Cummings, (202) 761-4750, e-mail: Ellen.M.Cummings@usace.army.mil.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under the Estuary Habitat Restoration Program, the U.S. Army Corps of Engineers (Corps), Department of the Interior (acting through the U.S. Fish and Wildlife Service), National Oceanic and Atmospheric Administration, Environmental Protection Agency, and Department of Agriculture are authorized to carry out estuary habitat restoration projects. The Estuary Habitat Restoration Council (Council) is responsible for soliciting, reviewing and evaluating project proposals. The agencies may only fund projects on the prioritized list provided by the Council. The Estuary Habitat Restoration Strategy prepared by the Council contains introductory information about the program and provides the context in which projects will be evaluated and the program will be administered. The Strategy was published in the **Federal Register** (67 FR 71942) on December 3, 2002. It is also accessible at <http://www.usace.army.mil/CECW/ERA/Pages/home.aspx> in PDF format.

An emphasis will be placed on achieving cost-effective restoration of ecosystems while promoting increased partnerships among agencies and between public and private sectors. Projects funded under this program will contribute to the Estuary Habitat Restoration Strategy goal of restoring 1,000,000 acres of estuary habitat.

For purposes of this program, *estuary* is defined as “a part of a river or stream or other body of water that has an unimpaired connection with the open sea and where the sea water is measurably diluted with fresh water from land drainage.” Estuary also includes the “* * * near coastal waters and wetlands of the Great Lakes that are similar in form and function to estuaries * * *” For this program, an estuary is considered to extend from the head of tide to the boundary with the open sea (to downstream terminus features or structures such as barrier islands, reefs, sand bars, mud flats, or headlands in

close proximity to the connection with the open sea). In the Great Lakes, riparian and nearshore areas adjacent to the mouths of creek or rivers entering the Great Lakes will be considered to be estuaries. Estuary habitat includes the estuary and its associated ecosystems, such as: Salt, brackish, and fresh water coastal marshes; coastal forested wetlands and other coastal wetlands; maritime forests; coastal grasslands; tidal flats; natural shoreline areas; shellfish beds; sea grass meadows; kelp beds; river deltas; and river and stream corridors under tidal influence.

II. Eligible Restoration Activities

Section 103 of the Estuary Restoration Act of 2000 (the Act) defines the term *estuary habitat restoration activity* to mean “an activity that results in improving degraded estuaries or estuary habitat or creating estuary habitat (including both physical and functional restoration), with the goal of attaining a self-sustaining system integrated into the surrounding landscape.” Projects funded under this program will be consistent with this definition and should include consideration of potential changes in future conditions due to climate change.

Eligible habitat restoration activities include reestablishment of chemical, physical, hydrologic, and biological features and components associated with an estuary. Restoration may include, but is not limited to, improvement of estuarine wetland tidal exchange or reestablishment of historic hydrology; dam or berm removal; improvement or reestablishment of fish passage; appropriate reef/substrate/habitat creation; planting of native estuarine wetland and submerged aquatic vegetation; reintroduction of native species; control of invasive species by altering conditions so they are less conducive to the invasive species; and establishment of riparian buffer zones in the estuary. Cleanup of pollution for the benefit of estuary habitat may be considered, as long as it does not meet the definition of excluded activities under the Act (see section III, **EXCLUDED ACTIVITIES**).

In general, proposed projects should clearly demonstrate anticipated benefits to habitats such as those habitats listed in the **INTRODUCTION**. Although the Council recognizes that water quality and land use issues may impact habitat restoration efforts and must be considered in project planning, the Estuary Habitat Restoration Program is intended to fund physical habitat restoration projects, not measures such as storm water detention ponds,

wastewater treatment plant upgrades or combined sewer outfall improvements.

III. Excluded Activities

Estuary Habitat Restoration Program funds will not be used for any activity that constitutes mitigation required under any Federal or State law for the adverse effects of an activity regulated or otherwise governed by Federal or State law, or that constitutes restoration for natural resource damages required under any Federal or State law. Estuary Habitat Restoration Program funds will not be used for remediation of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601–9675). Additionally, Estuary Habitat Restoration Program funds will not be used to carry out projects on Federal lands.

The Council recognizes that water quality issues can impact estuary habitat restoration efforts. However, this solicitation is intended to fund on-the-ground habitat restoration projects that will have significant and tangible ecological impacts. Projects dealing *only* with water quality improvement measures are not eligible. Ineligible projects include, but are not limited to, wastewater treatment plant upgrades, combined sewer outfalls, and non-point source pollution projects such as replacement of failing septic systems, implementation of farm waste management plans, and stormwater management projects. Other examples of activities that would not qualify would be restoration of an oyster bed with significant areas open to commercial harvest or a fish hatchery. Educational facilities such as classrooms, botanical gardens, or recreational facilities such as trails or boat ramps would also not qualify for cost sharing under this program although they may be included in the project if they do not conflict with the environmental benefits expected from project implementation.

IV. Project Sponsor and Cost Sharing

The Non-Federal Sponsor may be a State, a political subdivision of a State, a Tribe, or a regional or interstate agency. A non-governmental organization may serve as a Non-Federal Sponsor as determined by the Secretary of the Army (Secretary) in consultation with appropriate State and local governmental agencies and Tribes. For purposes of this act the term “non-governmental organization” does not include for profit enterprises. The Non-Federal Sponsor must be able to provide the real estate interests necessary for implementation, operation,

maintenance, repair, rehabilitation and replacement of the project. In most cases this means the Non-Federal Sponsor must have fee title to the lands necessary for the project although in some cases an easement may be sufficient.

The Federal share of the cost of an estuary habitat restoration project shall not exceed 65 percent in most cases. The exception to this is when the project deals with pilot testing or demonstrating an innovative technology or approach. In the latter case, the Federal share shall be 85 percent of the incremental additional cost of pilot testing or demonstration of an innovative technology or approach having the potential for improved cost-effectiveness. Innovative technology or approach are defined as novel processes, techniques and/or materials to restore habitat, or the use of existing processes, techniques, and/or materials in a new restoration application. Applicants must justify in the proposal why a particular project is innovative. In addition, the Council has final say as to whether a proposed project is innovative. The difference in the cost of the project related to the use of the innovative technique or approach must be clearly described. Please refer to the Supplemental Guidance for Prospective Applicants for an example of how to calculate the cost share for an innovative technology/approach application.

Prior to initiation of a project, the Non-Federal Sponsor must enter into an agreement with the funding agency in which the Non-Federal Sponsor agrees to provide its share of the project cost; including necessary lands, easements, rights-of-way, and relocations and long-term maintenance. The value of the required real estate interests will be credited towards the Non-Federal Sponsor's share of the project cost. The Non-Federal Sponsor may also receive credit for services and in-kind contributions toward its share of the project cost, including cost shared monitoring. Adaptive management will be a non-Federal responsibility; it will not be cost shared. Credit for the value of in-kind contributions is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including but not limited to the Davis-Bacon Act (40 U.S.C. 276a *et seq.*) the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*), and the Copeland Anti-Kickback Act (40 U.S.C. 276c). Credit may be afforded for the value of required work undertaken by volunteers, using the hourly value in common usage for grants programs but not to exceed the

Federal estimate of the cost of activity. The Non-Federal Sponsor shall also have a long-term responsibility for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating these projects. The cost of these activities will not be included in the total project cost and will not count toward the Non-Federal Sponsor's minimum 35 percent share of the project cost.

Other Federal funds, *i.e.*, funds appropriated to agencies other than the agency signing the cost-share agreement or cooperative agreement, may not be used by the Non-Federal Sponsor to meet its share of the project cost unless the other Federal agency verifies in writing that expenditure of funds for such purpose is expressly authorized by statute. Otherwise, other Federal funds may be used for the proposed project if consistent with the other agency's authorities and will count as part of the Federal share of the project cost. Any non-Federal funds or contributions used as a match for those other Federal funds may be used toward the project but will not be considered in determining the non-Federal share in relation to any Federal Estuary Habitat Restoration Program funds.

Credit will be provided only for work necessary for the specific project being funded with Estuary Habitat Restoration Program funds. For example, a non-Federal entity is engaged in the removal of ten dams, has removed six dams, and now seeks assistance for the removal of the remaining four dams as an Estuary Habitat Restoration Program project. None of the costs associated with the removal of the prior six dams is creditable as part of the non-Federal share of the project for removal of the remaining four dams.

If a Corps cost-share agreement is required, funds will not be transferred to the Non-Federal Sponsor. Instead, the Corps will use the funds to implement (construct) some portion of the proposed project as well as cover its management responsibilities. If the project meets the Corps conditions for implementation under a cooperative agreement or if NOAA funds a project, funds will be transferred to the Non-Federal Sponsor under a cooperative agreement. In all cases the funding agencies will use the planning, evaluation, and design products provided by the applicant to the extent possible. The Federal funding agency will be responsible for assuring compliance with Federal environmental statutes, assuring the project is designed to avoid adverse impacts on other properties and that the project can reasonably be expected to provide the

desired benefits. Corps activities related to implementation of projects under this authority will be part of the Federal cost of the project, and the Non-Federal Sponsor should consider these costs in developing the project cost estimate. The Non-Federal Sponsor should coordinate with the appropriate Corps district office during preparation of the proposal to obtain an estimate of the funds required and other available information which may improve the proposal. Information on district locations and boundaries may be found at <http://www.usace.army.mil/about/Pages/Locations.aspx>. If additional assistance regarding the Corps process or contacts is required please contact Ms. Cummings (see **FOR FURTHER INFORMATION CONTACT** section).

V. Funding Availability

Limited funds have been appropriated for implementation of projects under the Estuary Habitat Restoration Program. The Council will only accept proposals that request at least \$100,000 and no more than \$1,000,000 from this program. Projects will be funded subject to the availability of funds. The number of proposals funded as a result of this notice will depend on the number of eligible proposals received, the estimated amount of funds required for each selected project, and the merit and ranking of the proposals. The exact amount of the Federal and non-Federal cost share for each selected project will be specified in the agreement (See *PROJECT SPONSOR AND COST SHARING*, Section IV). Projects selected for funding must be capable of producing the ecosystem benefits described in the proposal in the absence of Federal funding beyond that provided in the cost-share or cooperative agreement.

VI. Proposal Review Process

Proposals will be screened as discussed in section VII.A. below to determine eligibility. The staff of the agencies represented on the Council will conduct a technical review of the eligible proposals in accordance with the criteria described in section VII.B. below. Each agency will score and rank the proposals; the five agencies will use these rankings as the basis for a consolidated recommendation to the Council. The recommendation will include indications as to which agency should fund a project, NOAA or the Corps. The Council will consider the recommendation, the items discussed in sections VII.C. and D. below, and possibly other factors when preparing its prioritized list of recommended projects for the Secretary's use.

VII. Proposal Review Criteria

This section describes the criteria that will be used to review and select projects to be recommended to the Secretary for funding under the Act. Project proposals should clearly address the criteria set forth under the following four subsections: Initial Screening of Project Proposals (VII.A.); Evaluation of Project Proposals (VII.B.); Priority Elements (VII.C.); and Other Factors (VII.D.).

A. Initial Screening of Project Proposals

Proposals will be screened according to the requirements listed in sections 104(b) and 104(c)(2) of the Act as described below. Proposed projects must not include excluded activities as discussed in Section III above. Additionally, the letter of assurance must indicate that the primary property owner and the party responsible for long-term maintenance have reviewed and support the proposal. Proposals that do not meet all of these initial screening criteria will not be evaluated further. To be accepted the proposal must:

- (1) Originate from a Non-Federal Sponsor (section 104(b));
- (2) Address restoration needs identified in an estuary habitat restoration plan (section 104 (c)(2)(A)). The Act defines "estuary habitat restoration plan" as any Federal, State, or regional plan for restoration of degraded estuary habitat that was developed with substantial participation of the public. (section 103(6));
- (3) Be consistent with the Estuary Habitat Restoration Strategy (section 104(c)(2)(B)) by:
 - (a) Including eligible restoration activities that provide ecosystem benefits;
 - (b) Addressing estuary habitat trends (including historic losses) in the project region, and indicating how these were considered in developing the project proposal;
 - (c) Involving a partnership approach, and
 - (d) Clearly describing the benefits expected to be realized by the proposed project;

(4) Include a post-construction monitoring plan that is consistent with standards developed by NOAA under section 104(c)(2)(C). The standards are available at: http://www.usace.army.mil/CECW/ERA/Pages/monitor_db.aspx and http://era.noaa.gov/htmls/era/era_monitoring.html, or from the contacts listed in the **FOR FURTHER INFORMATION CONTACT** section. Minimum monitoring requirements include monitoring over a period of five years

post-construction and tracking of at least one structural and one functional element. Examples of structural and functional elements are contained in the monitoring document cited above, and;

- (5) Include satisfactory assurances that the Non-Federal Sponsor has adequate authority and resources to carry out items of local cooperation and properly maintain the project (section 104(c)(2)(D)).

B. Evaluation of Project Proposals

Proposals that meet the initial screening criteria in A. above will be eligible for further review using the criteria listed below. Reviewers will assign scores to applications ranging from 0 to 100 points based on the evaluation criteria and respective weights specified below. Applications that best address these criteria will be the most competitive. The following criteria are listed in order of relative importance with the assigned points used in evaluation. If the reviewers find that a response to any of the first four criteria is not included in the proposal, or not adequate, the proposal will be rejected. For each of the listed criteria the focus will be on the factors mentioned below but other factors may also be considered.

- (1) *Ecosystem Benefits* (15 points)—Proposals will be evaluated based on the extent of proposed habitat restoration activities and the type(s) of habitat(s) that will be restored. Following are specific factors that reviewers will consider as part of this criterion:

- (a) Prevention or reversal of estuary habitat loss or degradation in the project area and the nature and extent of the proposed project's potential contribution to the long-term conservation of estuary habitat function and adaptation to climate change,

- (b) Benefits for Federally listed threatened or endangered species, species proposed for Federal listing, recently delisted species or designated or proposed critical habitat in the project area,

- (c) Extent to which the project will provide, restore, or improve habitat important for estuary-dependent fish and/or migratory birds (e.g., breeding, spawning, nursery, foraging, or staging habitat),

- (d) Prevention or reduction of nonpoint source pollution or other contaminants to estuary habitats or restoration of estuary habitats that are already contaminated, and

- (e) Benefits to nearby existing habitat areas, or contribution to the creation of wildlife/ecological corridors connecting existing habitat areas.

- (2) *Cost-Effectiveness* (15 points)—

Reviewers will evaluate the relationship between estimated project costs, including the costs of remaining planning, design, construction, required lands, and monitoring, to the monetary and non-monetary benefits described in the proposal. Clear quantitative and qualitative descriptions of the proposed outputs will facilitate this evaluation. Examples of units of measure include: Acres restored, stream miles opened to fish passage, flood damage reduction levels, changes in water quality parameters, increases in the productivity of various species, and presence and absence of certain species. The estimated persistence of the proposed project outputs through time will be considered. For example, will the area be maintained as a wetland, or allowed to erode or become upland? Is the project designed to adapt to climate change and potential changes in sea level? Will the proposed project produce additional benefits due to synergy between the proposed project and other ongoing or proposed projects? Reviewers will consider if the proposed project is a cost-effective way to achieve the project goals. In some instances the costs and benefits of proposed projects may be compared to the costs and benefits of other similar projects in the area. The significance of the proposed outputs is also a factor to be considered as part of cost-effectiveness. The significance of restoration outputs should be recognized in terms of institutional (such as laws, adopted plans, or policy statements), public (such as support for the project), or technical (such as if it addresses scarcity, increases limiting habitat, or improves or increases biodiversity) importance.

- (3) *Technical Feasibility* (15 points)—Reviewers will evaluate the extent to which, given current and projected environmental conditions of the restoration site—e.g., soils, flood regime, presence of invasive species, surrounding land use—the proposed project is likely to succeed.

Consideration will also be given to:

- (a) Potential success of restoration techniques, based on a history of successful implementation in field or pilot projects, and ability to adapt to climate change and potential changes in sea level,
- (b) Implementation schedule,
- (c) Expected length of time before success can be demonstrated,
- (d) Proposed corrective actions using monitoring information,
- (e) Project management plans, and
- (f) Experience and qualifications of project personnel.

(4) *Scientific Merit* (15 points)—

Reviewers will evaluate the extent to which the project design is based on sound ecological principles and is likely to meet project goals. This may be indicated by the following factors:

(a) Goals of the project are reasonable considering the existing and former habitat types present at the site and other local influences,

(b) The proposed restoration methodology demonstrates an understanding of habitat function, and has a good chance of meeting project goals and achieving long-term sustainability.

(5) *Agency Coordination* (10 points)—

Reviewers will evaluate the degree to which the project will encourage increased coordination and cooperation among Federal, State, and local government agencies. Some of the indicators used to evaluate coordination are:

(a) The State, Federal, and local agencies involved in developing the project and their expected roles in implementation,

(b) The nature of agency coordination, e.g., joint funding, periodic multi-agency review of the project, collaboration on adaptive management decisions, joint monitoring, opportunities for future collaboration, etc., and

(c) Whether a formal agreement, such as a Memorandum of Understanding (MOU), exists between/among agencies as part of the project.

(6) *Public/Private Partnerships* (10 points)—

One of the focuses of the Act is the encouragement of new public/private partnerships. Reviewers will evaluate the degree to which the project will foster public/private partnerships and uses Federal resources to encourage increased private sector involvement. Indicators of the success at meeting this criterion follow. How will the project promote collaboration or create partnerships among public and private entities, including potential for future new or expanded public/private partnerships? What mechanisms are being used to establish the partnership, e.g., joint funding, shared monitoring, joint decision-making on adaptive management strategies? Is there a formal agreement, such as a Memorandum of Understanding, between/among the partners as part of the project? Also important is the extent to which the project creates an opportunity for long-term partnerships among public and private entities.

(7) *Monitoring Plan* (10 points)—

Reviewers will consider the following factors in evaluating the quality of the monitoring plan:

(a) Linkage between the monitoring methods and the project goals, including accomplishment targets,

(b) How results will be evaluated (statistical comparison to baseline or reference condition, trend analysis, or other quantitative or qualitative approach),

(c) How baseline conditions will be established for the parameters to be measured,

(d) If applicable, the use and selection of reference sites, where they are located, how they were chosen, and whether they represent target conditions for the habitat or conditions at the site without restoration,

(e) Frequency and timing of measurements, and location to be sampled (at a minimum, one functional and one structural parameter must be measured),

(f) Provisions for adaptive management, and data reporting, and

(g) Whether the length of the proposed monitoring plan is appropriate for the project goals. The minimum required monitoring period is five years post-construction.

(8) *Level of Contribution* (5 points)—

Reviewers will consider the level and type (cash or in-kind) of Non-Federal Sponsor's contribution. Providing more than the minimum 35-percent share will be rated favorably. It must be clear how much of the total project cost the Estuary Habitat Restoration Program is expected to provide, how much is coming from other Federal sources, how much is coming directly from the sponsor, and how much is available or expected to be provided by other sources (either cash or in-kind). Preference may be given to projects with the majority of the funding confirmed.

(9) *Multiple Benefits* (3 points)—

In addition to the ecosystem benefits discussed in criterion (1) above, restored estuary habitats may provide additional benefits. Among those the reviewers will consider are: flood damage reduction, protection from storm surge, adaptation to climate change, water quality and/or quantity for human uses, recreational opportunities, and benefits to commercial fisheries.

(10) *Supports Regional Restoration Goals* (1 point)—

Describe the project's regional/local priority based on specific recovery planning goals or on publicly vetted restoration plans, watershed assessments, or other priority setting planning documents.

(11) *Part of a Federal or State Plan* (1 point)—

If the proposed project is part of a Federal or state plan, describe how the project would contribute to meeting and/or strengthening the plan's needs, goals, objectives and restoration priorities.

C. Priority Elements

Section 104 (c)(4) of the Act directs the Secretary to give priority consideration to a project that merits selection based on the above criteria if it:

(1) Occurs within a watershed where there is a program being implemented that addresses sources of pollution and other activities that otherwise would adversely affect the restored habitat; or

(2) Includes pilot testing or demonstration of an innovative technology or approach having the potential to achieve better restoration results than conventional technologies, or comparable results at lower cost in terms of energy, economics, or environmental impacts.

The Council will also consider these priority elements in ranking proposals.

D. Other Factors

In addition to considering the composite ratings developed in the evaluation process and the priority elements listed in C. above, the Council will consider other factors when preparing its prioritized list for the Secretary's use. These factors include (but may not be limited to) the following:

(1) Readiness of the project for implementation. Among the factors to be considered when evaluating readiness are the steps that must be taken prior to project implementation, for example is the project a concept, a detailed plan, or completed design; potential delays to project implementation; and the status of real estate acquisition. Proposed projects that have completed more of the pre-construction activities will generally receive more favorable consideration.

(2) Balance between large and small projects, to the extent possible given the program funding constraints.

(3) Geographic distribution of the projects.

VIII. Project Selection and Notification

The Secretary will select projects for funding from the Council's prioritized list of recommended projects after considering the criteria contained in section 104(c) of the Act, availability of funds and any reasonable additional factors. It is expected that the Secretary will select proposals for implementation approximately 100 days after the close of this solicitation or 30 days after

receiving the list from the Council, whichever is later. The Secretary will also recommend the lead Federal agency for each project to be funded. The Non-Federal Sponsor of each proposal will be notified of its status at the conclusion of the selection process. Staff from the appropriate Federal agency will work with the Non-Federal Sponsor of each selected project to develop the cost-sharing agreements and schedules for project implementation.

IX. Structure and Content of Application Submission

Each application should include:

_____ PART I questions completed (see Project Application)

_____ Project description organized according to the Project Application, including descriptions of:

_____ how regional habitat trends were considered in developing the project proposal

_____ expected ecosystem benefits, their significance/importance, when the benefits will be realized, and the project's expected lifetime

_____ the roles and contributions of project partners

_____ how the long-term operation and maintenance of the project will be handled

_____ Monitoring plan specifying at least one structural and one functional parameter to be measured and that monitoring will occur for five years post-construction

_____ Name and link to Federal or State restoration plan the project will address

_____ Detailed budget broken out by object class (see Supplemental Guidance for Prospective Applicants for more detail on creating a budget, including a budget table template and example narrative)

_____ Justification for an innovative project. If an applicant feels their project could be considered innovative, they should develop two budgets—one considering it innovative and one considering it as a standard project

_____ Map showing the project site and key features

_____ Description of compliance activities (e.g., NEPA) if any are completed

_____ Brief resumes of key staff (no more than one page per person, not more than 5 individuals)

_____ Letter of assurance stating adequate personnel, funding, and authority to conduct the project

_____ Signed certification form (see

Project Application) that the project is not an excluded activity (for a list of excluded activities see section III *EXCLUDED ACTIVITIES*)

A complete application package should be submitted in accordance with the guidelines in this solicitation.

X. Application Process

Proposal application forms, including Supplemental Guidance for Prospective Applicants, are available at <http://www.usace.army.mil/CECW/ERA/Pages/pps.aspx> and <http://era.noaa.gov> or by contacting Ms. Jenni Wallace (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections). Project proposals may be submitted electronically, by mail, or by courier. Electronic submissions are preferred. The application form has been approved by OMB in compliance with the Paperwork Reduction Act and is OMB No. 0710-0014 with an expiration date of November 30, 2011. Send electronic submissions to Jenni.Wallace@noaa.gov. Questions may also be sent to the same e-mail address. If it is not feasible to provide an electronic submission, hard copy submissions may be sent or delivered to Ms. Jenni Wallace, NOAA Restoration Center, SSMC3 F/HC3 Room 14730, 1315 East-West Highway, Silver Spring, MD 20910. The part of the proposal prepared to address the "proposal elements" portion of the application should be no more than twelve double-spaced pages, using a 10 or 12-point font. Paper copies should be printed on 8.5 in. x 11 in. paper and may be double sided but must not be bound as multiple copies will be necessary for review. Only one hard copy is required. A PC-compatible CD-ROM in either Microsoft Word or PDF format may accompany the paper copy. Nominations for multiple projects submitted by the same applicant must be submitted in separate e-mail messages and/or envelopes.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

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DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection

requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 16, 2010.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 12, 2010.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: New.

Title: Annual Performance Report for the Historically Black Colleges and Universities Master's Degree Program (HBCU).

Frequency: Annually.